

Remarks

Favorable reconsideration of this application is requested in view of the following remarks. For the reasons set forth below, Applicant respectfully submits that the claimed invention is allowable over the cited references.

The non-final Office Action dated February 25, 2004, indicated that claims 1, 3, 10, 11, 17, 18 and 23 stand objected to; the numbering of claims 20-24 was indicated to be out of accordance with 37 C.F.R. §1.126; claims 3 and 10 stand rejected under 35 U.S.C. §112, second paragraph; claims 1-5, 8-9, 11-14, 17-21, 23-24 stand rejected under 35 U.S.C. §102(e) in view of *Curry et al.* (US Patent 6,359,880); claims 6, 7, 15 and 22 stand rejected under 35 U.S.C. §103(a) over Curry; and claims 10 and 16 stand rejected under 35 U.S.C. §103(a) over Curry in view of *Voit* (US Patent 6,104,711).

Applicant submits that the amendments to the claims should overcome the objections thereto. In addition, claims 20-24 have been renumbered as indicated in the Office Action. Furthermore, the amendments to claims 3 and 10 should overcome the Section 112 rejection. Applicant appreciates the Examiner's close attention to the details relating to these amendments and the claim objections, as well as the Section 112 rejection.

Applicant respectfully traverses the Section 102(e) rejections because the cited portions of the '880 reference do not correspond to the claimed invention. For example, the Office Action's assertion on page 4 that the '880 reference teaches the PBX 65 communicating with wireless handsets using packet switched data is incorrect. Specifically, the PBX 65 communicates with the wireless handsets 1 over a basic rate interface (BRI) line using radio port control units (RPCUs) and wireless base stations (*see, e.g.*, column 11, lines 29-60). The PBX 65 also communicates with a packet service gateway 69 over a BRI line (*see, e.g.*, column 11, lines 60-67). The packet service gateway 69 performs a conversion between data communicated over the BRI line and data in a TCP/IP packet format (*see, e.g.*, column 15, lines 30-33, column 17, lines 6-11 and column 19, lines 20-35). Therefore, packet-based communications are limited to those beyond the gateway 69 (to/from the public packet data network 31), and communications between the wireless handsets 1 and the PBX 65 are thus not packet-based communications. Accordingly, the assertion on page 5 of the office action that the wireless handsets 1 (or landline phones 9) are packet-communicating endpoint devices is also incorrect. In this regard, the '880 reference does

not teach, as asserted in the Office Action, limitations directed to a private branch exchange that communicates to a remote location and packet-communicating endpoint devices using packet-based communications, as recited in claim 1.

In view of the above discussion regarding the lack of correspondence of the ‘880 reference under Section 102(e), Applicant submits that the all of the claim rejections should be removed. Each of the remaining Section 102 and Section 103 rejections rely upon the misplaced correspondence between the ‘880 reference and the instant invention, as discussed above, and are therefore improper. In this regard, Applicant traverses all of the Section 102 and Section 103 claim rejections. However, certain other ones of the claim rejections are addressed below.

Regarding the rejection of claims 2, 4, 12, 13 and 20 on page 6 of the Office Action, Applicant further traverses because the rejection fails to show how the handsets (asserted as items 1 and 9 in FIG. 2 of the ‘880 reference) would store an IP address. As discussed above, these items 1 and 9 of FIG. 2 do not communicate using packet-based communications. Rather, a conversion to packet communications is carried out at the packet service gateway 69 of the wireless gateway system 5. *See, e.g.,* FIGs. 1 and 2 and corresponding discussion. Therefore, the elements 1 and 9 of FIG. 2 do not correspond to the claimed invention including, *e.g.*, those aspects directed to the storage of an IP address.

Further regarding the rejection of claims 2, 4, 12, 13 and 20, Applicant submits that the assertion on page 7 of the Office Action that a MAC address as claimed is well-known in the art, without any evidence in support of the assertion, is improper. In addition, the apparent inherency-based argument regarding the use of a MAC address is accordingly improper. Without any evidence in support of the alleged inherency, there is no showing of sufficient correspondence between any prior art and the claimed invention. Moreover, these proposed modifications of the primary ‘880 reference made in connection with the assertions of well-known and inherent art are not the proper subject of a Section 102(e) rejection; as indicated in the M.P.E.P., such a rejection requires complete correspondence with the rejected claims.

Regarding the rejection of claim 3 on page 7 of the Office Action, the assertion that the PBX 65 of FIG. 2 in the ‘880 reference provides the interexchange portion of telephone calls utilizing a public packet switched data network is also incorrect. As

discussed above, all communications with the PBX 65 are via BRI type lines or a primary rate interface (PRI) to a publicly-switched telephone network. In the system 5 of FIG. 2, only the packet service gateway 69 utilizes a public packet switched data network. Therefore, the element PBX 65 of FIG. 2 in the '880 reference does not correspond to the claimed limitations directed to an Internet-based private branch exchange that communicates using packets.

Regarding the rejection of independent claim 23 on page 8 of the Office Action, the PBX 65 does not, as discussed above in connection with the rejection of claim 3, provide telephone call interexchange utilizing a public packet switched data network. In addition, the cited portions of the '880 reference do not show how the BRI line circuits coupled to the PBX 65 in FIG. 2 correspond to limitations directed to an internet-based private branch exchange. Further as discussed above, the assertion in the Office Action that the wireless handsets (1) and local landline telephones (9) of the '880 reference correspond to packet-communicating endpoint devices is unsupported and incorrect. Therefore, the cited portions of the '880 reference fail to provide correspondence to the limitations in claim 23 (and, accordingly, to the limitations in the claims that depend therefrom).

Applicant further traverses the Section 103 rejection of claims 6, 7, 15 and 22 because the Office Action failed to cite any evidence in support of the assertions on page 12 regarding various 'well known' teachings. Applicant submits that such an assertion, without citation to any prior art references, is improper.

Applicant also traverses the Section 103 rejection because the Office Action failed to cite any evidence of motivation for modifying the primary '880 reference to arrive at the presently claimed invention. Instead of citing such evidence, the Office Action makes hindsight assertions in view of Applicant's disclosure, without citing any evidence in support of such assertions. Relevant case law indicates that such assertions, made in hindsight, are improper when used in connection with a Section 103 rejection as in the Office Action.

In view of the above discussion, Applicant believes that the rejections have been overcome and the application is in condition for allowance. A favorable response is requested. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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